

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMES BELL, III,

Plaintiff,

V.

CITY OF BOURBON, MISSOURI, et al.,

Defendants.

No. 4:23-CV-1318 RLW

MEMORANDUM AND ORDER

This matter is before the Court on the Plaintiff's Motion for Leave to File a Second Amended Complaint. (ECF No. 93). Defendants City of Bourbon, Missouri and Amanda Rauss oppose the Motion. Defendants Crawford County, Missouri, Paul Satterfield, Darin J. Layman, Crawford County R-1 School District, Patricia Thompson, ABBCO Service, LLC, Tom Leonard, and Brad Gross did not respond to the Motion, and the time to do so has expired. For the reasons that follow, Plaintiff's Motion for Leave to File a Second Amended Complaint is granted.

Plaintiff originally filed suit against Defendants City of Bourbon, Missouri, Crawford County, Missouri, Paul Satterfield, Darin J. Layman, Amanda Rauss, Crawford County R-1 School District, Patricia Thompson, ABBCO Service, LLC, Tom Leonard, Brad Gross, and four John Doe defendants on October 19, 2023. In response to the original Complaint, some of the defendants filed answers and some filed motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim. Plaintiff sought leave to file an Amended Complaint to include additional factual allegations and address some of

the arguments raised in the motions to dismiss. On February 28, 2024, the Court granted Plaintiff's Second Motion for Leave to File an Amended Complaint, which was unopposed.

In response to the Amended Complaint, none of the defendants filed an answer. They all filed motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim. Some of the defendants raised the argument that Plaintiff had not sued them in their individual capacities.

On March 26, 2024, Plaintiff moved that he be allowed to amend his Amended Complaint by interlineation to add that some of the defendants were being sued in their individual capacities. Plaintiff stated that the capacity allegations, which included in his original Complaint, were inadvertently omitted in the Amended Complaint. The Court denied the motion because it does not allow amendment of pleadings through interlineation. The Court directed Plaintiff to file a Motion for Leave to File a Second Amended Complaint with the proposed pleading attached to the motion, which Plaintiff did. This is the motion pending before the Court.

Rule 15 of the Federal Rules of Civil Procedure governs amended and supplemental pleadings and provides that after the deadline for amending as a matter of course has passed, a party may amend its pleading only with the opposing party's consent or the leave of the Court. Fed. R. Civ. P. 15(a)(2). However, "leave to amend should be granted freely when justice so requires." In re Cerner Corp. Sec. Litig., 425 F.3d 1079, 1086 (8th Cir. 2005). Unless there is a good reason for denial, "such as undue delay, bad faith, or dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the non-moving party, or futility of the amendment, leave to amend should be


granted.” Thompson–El v. Jones, 876 F.2d 66, 67 (8th Cir. 1989) (citing Foman v. Davis, 371 U.S. 178, 182, (1962)). See also Word v. Missouri Dep’t of Corr., 542 F. App’x 540, 541 (8th Cir. 2013) (finding district court abused its discretion by denying plaintiff’s motion for leave to amend his § 1983 complaint).

Here, Plaintiff seeks to leave to file a Second Amended Complaint to clarify that he is bringing claims against some of the individual defendants in their individual capacities. Defendants City of Bourbon, Missouri and Amanda Rauss oppose the Motion arguing that the proposed amendment is futile because it does not cure the deficiencies in the factual allegations as to the claims against them. However, no other defendant opposes the proposed amendment, and arguably the amendment may cure deficiencies in the Amended Complaint. Because it is relatively early in these proceedings, and there is no evidence of undue delay or bad faith, the Court will allow Plaintiff leave to file a Second Amended Complaint. As for the arguments Defendants City of Bourbon, Missouri and Amanda Rauss make in their opposition to Plaintiff’s Motion for Leave, these arguments can be raised in response to the Second Amended Complaint. Plaintiff’s Motion for Leave to File a Second Amended Complaint is granted.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff James Bell, III’s Motion for Leave to File a Second Amended Complaint is **GRANTED**. The Clerk of the Court shall detach and docket the Second Amended Complaint, which was submitted as an attachment to the Motion for Leave. Defendants shall answer or otherwise respond to the Second Amended Complaint within the time allowed under the applicable rules. [ECF No. 93]

IT IS FURTHER ORDERED that Defendants City of Bourbon, Missouri and Amanda Rauss's Motion to Dismiss, Defendants Crawford County, Missouri and Sheriff Darin J. Layman's Motion to Dismiss, Defendants ABBCO Service, LLC, Tom Leonard, and Brad Gross's Motion to Dismiss, Defendants Crawford County R-1 School District and Patricia Thompson's Motion to Dismiss, Defendant Paul Satterfield's Motion to Dismiss, and Plaintiff James Bell, III's Motion to Extension of Time are **DENIED as moot**. [ECF Nos. 80, 82, 84, 86, 88, and 95]


RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

Dated this 22nd day of April, 2024.